UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

DUDLEY HARRIS,

Plaintiff,

- v -

Civ. No. 9:08-CV-271 (DNH/RFT)

FISCHER, et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

DUDLEY HARRIS
99-B-1293
Plaintiff, *Pro Se*Franklin Correctional Facility
62 Bare Hill Road
P.O. Box 10
Malone, New York 12953

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RANDOLPH F. TREECE United States Magistrate Judge

REPORT-RECOMMENDATION and ORDER

This prisoner civil rights action came to a close upon the parties' settlement, which was endorsed by the Court. Dkt. No. 80. Plaintiff now asks the Court, in essence, to rescind that contract and place the matter on the active trial calendar due to Defendants' failure to pay the agreed upon amount within the allotted time period. Dkt. No. 81. Defendants note, in response, that they

¹ By Oral Order, entered on the Docket Report, the Honorable David N. Hurd, United States Magistrate Judge, referred this discreet issue to the undersigned for report-recommendation. Docket Entry, dated Sept. 1, 2010.

obtained approval of the settlement and the penalty for failing to provide the money in a timely fashion is not annulment of the contract, but rather calculation of interest. Dkt. No. 82.

Based on our review of the relevant documents, it is clear that Plaintiff's request should be **denied**.

WHEREFORE, it is hereby

RECOMMENDED, that the Plaintiff's Letter Motion, Dkt. No. 81, should be **DENIED**; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Report-Recommendation and Order upon the parties to this action.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen (14) days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court.

FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN (14) DAYS WILL PRECLUDE APPELLATE REVIEW. Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993) (citing Small v. Sec'y of Health and Human Servs., 892 F.2d 15 (2d Cir. 1989)); see also 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72, 6(a), & 6(e).

Date: September 2, 2010 Albany, New York

> RANDOLPH E TREECE United States Magistrate Judge

FIG. 3. Detection of several dominant EV serotypes (~5,000 virus/rxn) either pure or in a background of human RNA (ROX).

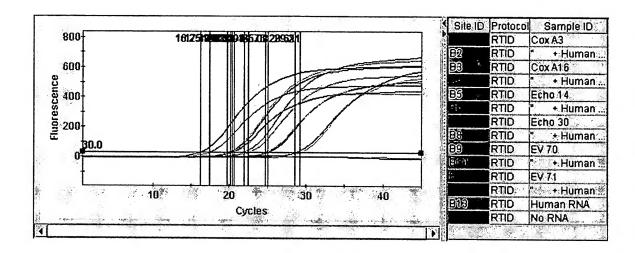


FIG. 4. Detection of EV in archived CSF samples with and without a human RNA "spike" (ROX). Results correlate with "nested" RT-PCR results using PAGE.

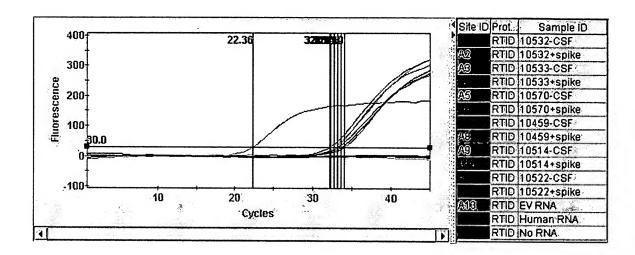


FIG. 5. Detection of human beta-actin mRNA in archived CSF samples (from above, #4). Patient-derived internal positive control signal was detected in all samples (FAM).

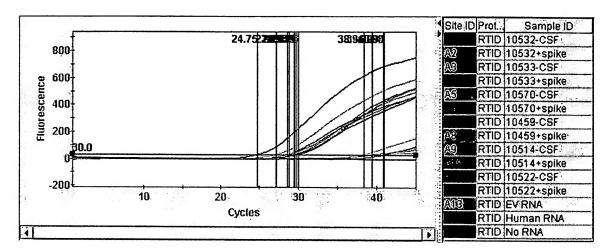


FIG. 6. Additional set of archived CSF samples (positives and negatives) showing EV detection (ROX).

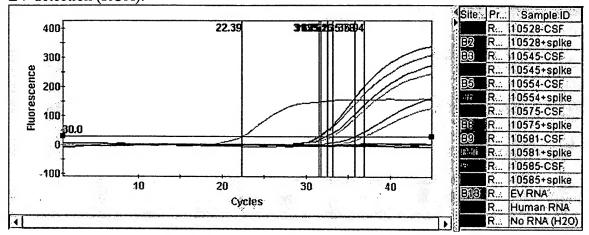


FIG. 7. Same samples as above (#6) showing detection of beta-actin internal control (FAM).

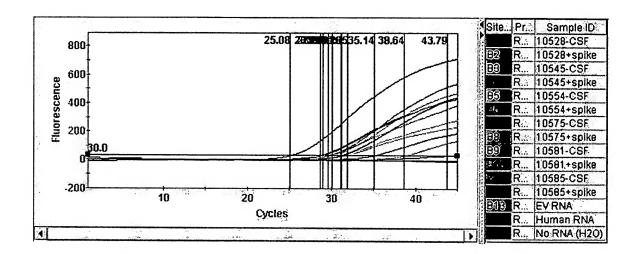


FIG. 8. Detection of EV in archived plasma samples (positives & negatives) (ROX).

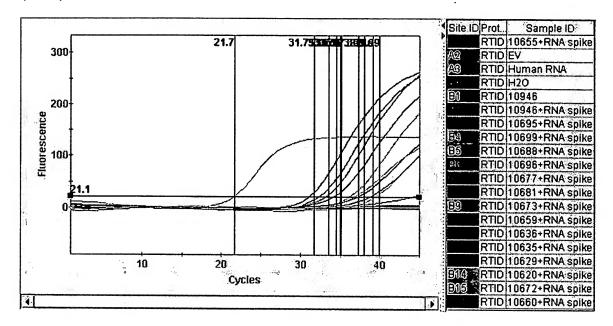


FIG. 9. Detection of beta-actin internal positive control in same plasma samples as above (#8) (FAM).

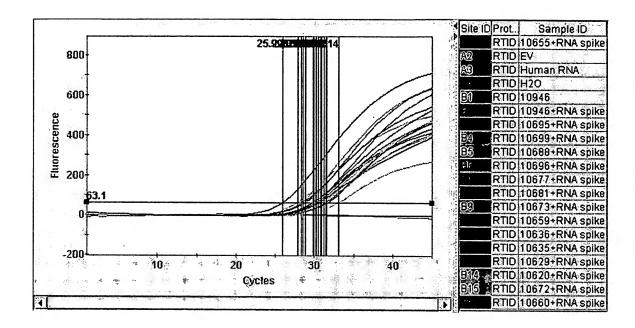


FIG. 10. Detection of EV in a blood from clinically determined "high" and "low" titer" infections (each run in duplicate) (ROX).

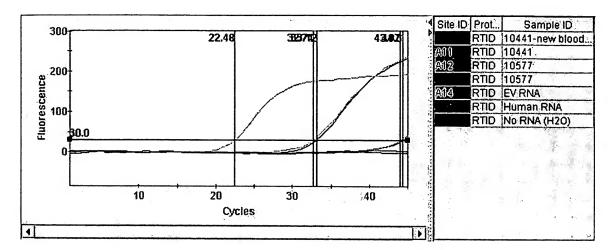


FIG. 11. Detection of beta-actin internal positive control in the samples shown above (#10) (FAM).

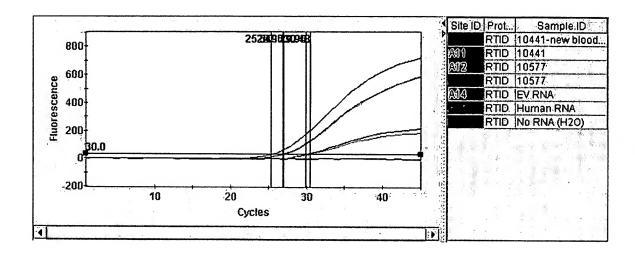


FIG. 12. EV Real-time RT-PCR assay performed on known negative CSF samples (ROX).

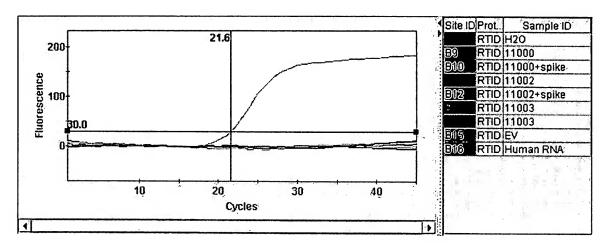


FIG. 13. Detection of beta-actin internal positive control in above negative samples (FAM).

